



NATURAL GAS STORAGE LEASE

Lease No. 63-_____

THIS Agreement is made this _____ day of _____, 20____ (the "Commence Date"), by and between the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, (hereinafter "State"), and _____ (hereinafter "Lessee").

DEFINITIONS

For the purpose of this Agreement the following definitions shall apply:

Gas: Natural gas (liquid or gaseous) injected into the Property by Lessee or its agents for subsequent withdrawal by the Lessee or its agents. This definition does not include Native Oil or Gas as defined below.

Native Oil or Gas: Native oil or gas shall mean liquid or gaseous hydrocarbon substances found to exist naturally within the Property and that have not been injected into the Property by the Lessee or any other person.

Associated Substances: All gaseous or liquid substances produced in association with Native Oil or Gas but it shall not include coal, lignite, oil shale, similar solid hydrocarbons, minerals, water, steam or any geothermal resources.

Contract Year: The annual period between the Commencement Date and each anniversary of the Commencement Date. The Contract Year shall be identified by the year in which the Contract Year began.

Commercial Date: The day upon which the Lessee first charges a third party for storage of Gas, or Gas is injected into the Underground Reservoir for purposes other than for testing or to create Cushion Gas, or Gas is withdrawn from the Underground Reservoir for other than test purposes, which ever comes first.

Index: United States Department of Labor, Bureau of Labor Statistics, "All Items" Consumer Price Index for All Urban Consumers ("CPI"), US City Average (1982-84=100) published on or about the middle of March of the subsequent year for the previous calendar year.

Improvements: Improvements, as defined in RCW 79.02.010(6), are fixtures placed upon or attached to the land that has changed the value of the lands or results in any changes in the previous condition of the fixtures that changes the value of the land.

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Unitize: The operation of all or part of a field as a single entity for operating purposes.

Underground Reservoir: Any subsurface sand, strata, formation, aquifer, cavern or void, whether natural or artificially created, suitable for the injection and storage of Gas therein and the withdrawal of Gas therefrom.

Cushion Gas: The volume of gas needed as permanent inventory in an underground reservoir to maintain adequate pressure and deliverability rates throughout the withdrawal season.

Recoverable Reserves: The quantity of the Native Oil and Gas which can be expected to be economically recovered, using the infrastructure associated with the gas storage operation, and using standard industry methods to calculate the reserves.

Gas Storage Reservoir Area: The lands described in Exhibit ____ to this agreement.

SECTION 1 TITLE AND WARRANTIES

1.01 Property. State leases to the Lessee the following described land in _____ County, Washington (hereafter "Property"):

Subject To:

1.02 No Warranty of Title. This Agreement is granted without warranty of title, either express or implied, as regards oil and gas mineral rights or gas storage rights, and covers only State's present interest in said land. No representations, warranties or guarantees of any kind are made by the State, and the State shall not be subject to any liabilities whatsoever on account of any shortage or defect in title to any part of said property. The Lessee represents that Lessee has investigated the title and is satisfied with such title as the State may have. State hereby disclaims any covenant of quiet enjoyment or peaceful possession of the Property.

1.03 Condition of Property. The State makes no warranties as to the condition of the Property, and Lessee accepts the Property "AS IS". The State has no obligation to make any repairs, additions, or improvements to the Property and expressly disclaims any warranty that the Property is suitable for the uses permitted in Section 3 (Permitted Use).

1.04 Title. Title to all Gas injected into the Underground Reservoir by Lessee or third parties shall be treated as personal property and remain the property of Lessee.

SECTION 2 TERM

The right of possession shall commence on the Commencement Date and continue for twenty (20) years. This Agreement shall be renewable by Lessee for another twenty (20) year period so long as the Property continues to be used for the storage of Gas in an Underground Reservoir

under the terms and conditions contained herein with an adjustment of rents and fees as provided under Subsection 4.08(2) at the time of renewal.

SECTION 3 PERMITTED USE

3.01 Permitted Use. The Lessee shall, upon compliance with the State Environmental Policy Act, Oil and Gas Conservation Act and receipt of the required permits, have the sole and exclusive right to explore for, establish and operate one or more Underground Reservoirs on the Property, in accordance with all terms and conditions of this Agreement, and such other activities reasonably necessary to fulfill the permitted use including but not limited to the following:

- (1) Lessee may explore for by geological, geophysical or other methods, drill for, test for, establish, create and operate one or more Underground Reservoirs lying wholly or partly within the Property for the storage of Gas owned by Lessee or by third parties, and in connection with such operations to introduce Gas into any Underground Reservoir underlying the surface of the Property, to store Gas and to remove Gas so injected through wells now or subsequently located or drilled on the Property or other lands.
- (2) Lessee may use, drill, install, construct, maintain, operate, inject in and remove wells; construct, erect, maintain, use, operate, replace and remove pipelines, power lines, power generation facilities, telephone lines, roads tanks, buildings, pits, ponds, water lines, fences, machinery, compressor facilities, and other facilities appurtenant as may be reasonably necessary for the Underground Reservoir operations; to have the right to use so much of the surface of the Property as may be reasonably necessary to operate the Property so long as such use does not unreasonably interfere with the reserved rights of State or interests of any third party rights that may exist for this Property.
- (3) Lessee may exercise its rights hereunder in conjunction with storage operations on other lands in the Gas Storage reservoir Area, including without limitation for the unified operation of an Underground Reservoir lying partially under lands owned by third parties. Lessee may expand the Gas Storage Reservoir Area as described in Exhibit _____ where necessary to ensure that the Gas Storage Reservoir Area covers the entire Underground Reservoir plus a reasonable buffer area, but any such modification must receive the prior written approval of State, which shall not be unreasonably withheld.
- (4) Lessee may inject water into and remove water from any Underground Reservoirs and reinject or remove the same for the purpose of operating or testing such reservoirs.

SECTION 4 PAYMENT

4.01 Storage Rent. Lessee shall make the following payments to State, annually in advance, within 30 days of the Commencement Date or anniversary date.

- (1) Exploration Rate. \$12.00 per acre per year beginning at Commencement Date and continuing thereafter as adjusted under Subsection 4.08 for a period of five (5) years

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or until the date on which application for permits is submitted to the Federal Energy Regulatory Commission (FERC), Energy Facility Site Evaluation Council (EFSEC), or other body to permit development of the area for an Underground Reservoir ("Permit Date"), which ever comes first.

(2) Permit Rate. A rate equal to 1.5 times the Exploration Rate, then in effect, per acre per year beginning on the fifth anniversary date or the Permit Date which ever comes first and continuing thereafter as adjusted under Subsection 4.08 for a period of 5 years or until the Commercial Date whichever comes first.

(3) Commercial Rate. A rate equal to 1.5 times the Permit Rate, then in effect, per acre per year beginning on the tenth anniversary date or when the Commercial Date occurs, which ever comes first and continuing thereafter as adjusted under Subsection 4.08 for the Term of the Agreement.

4.02 Injection and Withdrawal Fee. In addition to the rent in Subsection 4.01, Lessee shall pay an injection fee of \$0.0038 per Mcf and a withdrawal fee of \$0.0152 per Mcf, adjusted for the proportionate share of this Agreement acreage to the acreage in the Gas Storage Reservoir Area, of all gas injected into and withdrawn from the Underground Reservoir. No withdrawal fee will be required on withdrawn Native Gas; Native Gas shall be assessed a royalty as provided under Subsection 4.03. The fees shall be paid in arrears on the Gas injected or withdrawn during the prior quarter. The injection and withdrawal fees shall be paid within 20 days after each calendar quarter. The proportionate shares of gas injected or withdrawn from the Property is defined as follows:

$$\begin{array}{l} \text{Number of net surface acres in the Property} \\ \text{Proportionate share of Property-Percent} = \end{array} \frac{\text{Total number of surface acres in the Gas Storage Reservoir Area}}{\text{Total number of surface acres in the Gas Storage Reservoir Area}} \times 100$$

4.03 Royalties on Native Oil and Gas. Lessee shall pay a royalty of twelve and one half percent (12.5%) for Native Oil and/or Gas Recoverable Reserves identified in the engineer's report provided under Subsection 6.03(1). The estimate of original Recoverable Reserves in place may change from year to year as new information becomes available and is reported to the State under Subsection 6.03. The petroleum engineer's report shall include a month-by-month schedule of production, derived according to generally accepted engineering and geological methods used by the petroleum industry, based on the assumption that the Recoverable Reserves would be produced continuously at the maximum prudent rate through the existing wells, to an assumed depletion pressure of 100 pounds per square inch absolute of reservoir pressure. Such schedule of production shall be adjusted by a petroleum engineer in subsequent years if new information requires such modification. Royalty for each month's scheduled production (whether or not such hydrocarbons are actually produced by Lessee or used as Cushion Gas) shall be paid based on the value of oil, gas, or associated substances as set forth under WAC 332-12-330 as now written or thereafter modified. The royalty shall be allocated to the State on an acreage basis according to the formula set forth under "Proportionate share of Property-percent" in Subsection 4.02. The royalty shall be payable within twenty (20) days of the end of each month. If the quantity of Native Gas extracted from the Property exceeds the amount projected

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under the production schedule, additional royalty shall be due. If the quantity of gas extracted from the Property determined on a cumulative basis from the Commencement Date should exceed the sum of (1) the amount of Gas injected, determined on a cumulative basis from the Commencement Date plus (2) the Recoverable Reserves of Native Gas as determined by the most recent petroleum engineer's report under Subsection 6.03, then the excess shall be deemed Native Gas, and additional royalty shall be paid on such gas in the month of production. Title to Native Gas and/or Oil shall not pass until the royalty is paid. A similar calculation shall be made to determine whether Native Oil is produced in excess of the Recoverable Reserves of Native Oil estimated by a petroleum engineer as provided in Subsection 6.03, and if so, royalty on such Native Oil shall be paid in the month following the month of production.

4.04 Place of Payment. The Lessee shall make payments to the Department of Natural Resources at Olympia, Washington 98504-7041. The Lessee shall submit a statement showing quantities extracted, injected and withdrawn together with such other information as the State may require.

4.05 Counterclaim, Setoff, or Abatement of Rent. Rent and all other sums payable by Lessee hereunder shall be paid without the requirement of prior notice or demand by State, and shall not be subject to any counterclaim, setoff, deduction or defense and without abatement except as expressly provided in this Agreement. The obligations and liabilities of Lessee hereunder shall in no way be released, discharged or otherwise affected, except as expressly provided in Section 12 (Condemnation).

4.06 Interest Charged for Past-Due Rent and Other Sums Owed. Lessee shall pay interest at the rate of one percent (1%) per month, until paid, on rent or other sums owing under the terms of this Agreement commencing the date such rent or other sum is due and payable. In the event State pays any sum or incurs any expense which Lessee is obligated to satisfy or pay under this Agreement, or which is made on behalf of Lessee, State shall be entitled to receive reimbursement thereof from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

4.07 Late Charge for Failure to Pay. In the event the Lessee fails to make any payment of rent, fees and royalties due hereunder upon the date due, the State shall be entitled to collect from the Lessee a late charge equal to six percent (6%) of the amount of the delinquent payment, or \$500 whichever is less.

4.08 Adjustment of Rents and Fees.

(1) Annual Adjustment. Beginning on _____, the anniversary of the Commencement Date, and annually thereafter (the "Adjustment Date"), new annual rates will be established for the rents and fees required under Subsection 4.01 and 4.02. In no event will the adjusted annual rates be less than the previous annual rates. Adjusted rates established after the designated Adjustment Date shall be due retroactive to such Adjustment Date. The method for such adjustment shall be as follows:

Increase of the current annual rate by the percentage increase in the Index, between the date one year previous to the Adjustment Date and the Adjustment Date, (i.e., adjusted

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rate equals current annual rate times the Index as of current Adjustment Date divided by the Index as of the date for the previous year). In the event the Index ceases to be published, the State may substitute such other comparable cost of living index as then may be in publication by a comparable governmental agency.

EXAMPLE

Rent for Contract Year 1997:

Index published for the month of August, 1997 X 1996 Contract Year Rate
Index published for the month of August 1996

The State shall have the duty to notify the Lessee of any adjustment of rates pursuant to this Subsection 4.08, and Lessee shall not be deemed to be in default for failure to pay an adjusted rental rate unless the State previously has notified Lessee that such rate has been adjusted.

(2) Adjustment. On the twentieth anniversary of the Commencement Date, and every fifth anniversary thereafter, State shall have a right, but not the obligation, to modify the rents, rates, fees, royalties, and other payments ("rates and fees") imposed under this Section 4 and the calculation of such payments to ensure a fair market return to the State. If the parties can not agree on the new rates and fees within sixty (60) days, the matter will be submitted to arbitration under the rules of the American Arbitration Association for a determination of fair market return to the State with each side to bear its own costs and attorney's fees. The cost of the arbitrator shall be shared equally between the State and Lessee. The decision of the arbitrator shall be binding and retroactive to the adjustment date.

4.09 Failure to Adjust Not Waiver. Failure of State to adjust rent pursuant to Subsection 4.08 above at the end of any one-year period shall not be a waiver by State of the right to adjust rent at the end of any subsequent one-year period. State shall retain the right, for so long as this Agreement remains in effect, to adjust rates as of the end of any one-year period, as though all prior adjustments had been made in accordance with the above provisions.

4.10 Records and Reports. The Lessee shall prepare, maintain and keep for a period of five (5) years following the year of operation, a clear, complete and detailed record and accounting system of all business affecting rents, royalties, or other payments due the State including records and reports pertaining to offset wells operated by Lessee. The State shall at all reasonable times have access to any and all books, records and files of all kinds for the purpose of checking and enforcing the provisions of this Agreement.

4.11 Right to Examine Books and Records. The acceptance by the State of rents, royalties, or other payments shall be without prejudice to the State's right to an examination of the Lessee's books and files in order to verify the amount due State hereunder.

4.12 Audit. At its option, the State may cause a complete audit to be made of the Lessee's business affairs and records relating to the Property for the period covered by any statement or report issued by the Lessee: **PROVIDED**, the Lessee has received 48 hours' written notice. If

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such an audit should disclose a liability for injection or withdrawal fees or royalties in excess of those computed and paid by the Lessee for such period, Lessee shall promptly remit that amount to the State. Further, if such liability exceeds fees or royalties paid by five percent (5%) or more, the Lessee shall pay the State audit costs in addition to the liability.

4.13 Measurements. All production shall be accurately measured using standards established by the American Gas Association (AGA) and/or the American Petroleum Institute (API) and all measuring devices shall be tamper proof.

4.14 Shared Subsurface Estate. The Lessee shall pay rent, injection and withdrawal fees, and royalties in proportion to the State's subsurface ownership.

4.16 Form of Currency. All payments made under this Agreement shall be made in U.S. Dollars.

OPTIONAL-USE IF THIS LEASE IS OPTION TO OIL AND GAS LEASE

4.17 Option Rents. *The rents and fees set forth under subsections 4.01 and 4.02 have been established using a base year of 1998. If the Commencement date of this Agreement occurs after January 1, 1998, the rents and fees specified for Subsections 4.01 and 4.02 shall be adjusted pursuant to subsection 4.08 from the Commencement Date of the Oil and Gas Lease to the Commencement Date of this Agreement to determine the applicable payments for the initial contract year after exercise of the option. Rates for subsequent years will be determined as set forth in Subsection 4.08.*

SECTION 5 RESERVATIONS

5.01 Compliance. The State shall have access to the Property at all reasonable times to secure compliance with this Agreement. The State shall provide Lessee with twenty-four (24) hours advance notice before entering the Property to secure compliance with this Agreement.

5.02 Multiple Use Policy. The State of Washington has a policy of multiple use of State lands to permit the use and development of the surface and subsurface estates including oil, gas, chemicals, minerals, water and other natural resources under different types of leases and use agreements to allow the fullest possible utilization and development. This Agreement relates to one of the types of uses and development of the resources upon the Property, and it is intended that operations and development under this lease shall be conducted by such methods and in such a manner as to avoid unreasonably interfering with the State's reserved rights or rights of third parties.

5.03 Reserved Surface and Subsurface Rights. State shall at all times during the term of this Agreement have the use of any and all parts of the Property for any and all purposes so long as State does not unreasonably interfere with the rights and performance of Lessee under this Agreement and the Plan of Operations. State reserves the right to sell, lease or otherwise dispose of surface resources, including but not limited to timber and other valuable materials, and subsurface interests including but not limited to minerals other than the rights leased herein.

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fossils, coal, gas, or other material not conveyed under this Agreement if such subsurface resources are located more than 500 feet beneath the stratigraphic zone of the lowest Underground Reservoir as identified in an approved Plan of Operations, and any drilling can be done without damage to the Gas Storage Reservoir Area; provided that State shall not convey or lease any subsurface resources until after Lessee has submitted its first Plan of Operation. State shall have the right to enter and conduct all resource management activities, including but not limited to activities associated with timber management. The State shall also have the right to enter upon said land and remove same. State reserves the right to sell, exchange, transfer or otherwise dispose of all or part of the Property subject to this Agreement.

5.04 Reserved Right to Roads. The State shall have the right to use all existing roads and/or any road constructed or reconstructed by the Lessee for any and all purposes deemed necessary or desirable in connection with the control, management, harvest and administration of State-owned land or the resources thereof. State reserves the right to issue rights of way and easements upon the Property so long as such rights of way or easements do not unreasonably interfere with any of Lessee's approved operations.

5.05 Duty to Compensate for Surface Damages. The Lessee shall not commence operations until making arrangements for compensation to the owner of surface rights, including the State if it is the surface owner of the Property, including damages caused by Lessee's operations to growing crops, timber, and improvements.

SECTION 6 MANAGEMENT

6.01 Management. The Property and all improvements thereon shall be managed and maintained in accordance with customary standards of the industry, and the Lessee shall perform all work and furnish all labor, equipment and materials sufficient for the discovery of gas storage areas.

6.02 Plan of Operations. Lessee shall conduct all activities on the Property pursuant to the approved Plan of Operations which shall become part of the Agreement and attached as an exhibit to this Agreement. State shall not unreasonably withhold its approval of the Plan of Operations or amendments thereto. No activities may be conducted on the Property unless they are part of an approved Plan of Operations. Any change in operations shall require a change in the Plan of Operations and must be approved in advance by the State. The Plan of Operations shall be consistent with and not interfere with rights of third parties affecting the Property which arose prior to this Agreement and must comply with all applicable federal, state, county, and other local regulations.

The Plan of Operations shall address any activity deemed relevant by State (which shall be at State's sole discretion), including but not limited to, the following subsections. Each subsection must be approved by the State with the exception of Subsection 6.02(1) which is provided for informational purposes only.

(1) The location and depth of stratigraphic zone(s) and/ or Underground Reservoir(s), which will be subject to exploratory or development activities.

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- (2) The type, location, and schedule of all exploratory and development activities including but not limited to stratigraphic or exploratory or development drilling; vibratory and/or explosive seismic operations, or other geophysical investigations; geological investigations and other surface activities.
- (3) An Equipment Plan identifying all portable equipment, including drills, to be used on the Property, its location and the measures to protect soil and water resources in relation to its use.
- (4) The proposed location of all roads on or to the Property, pipelines, and power lines and methods to minimize disturbance to the Property from the siting, construction, installation, maintenance and operation of such.
- (5) The methods to protect surface and ground water quality, native vegetation and timber, and fish and wildlife habitat.
- (6) An Erosion and Storm water Control Plan for all roads, drill sites, facilities, and disturbed areas to insure that operations provide soil stability and to reestablish the vegetative cover.
- (7) A Reclamation Plan detailing reclamation for all surface disturbance. The plan should identify the type and schedule for reclamation which shall be done at the completion of each phase of exploration and/or development, so as to keep the unreclaimed area to the minimum necessary for efficient operations. Surface disturbance due to seasonal exploration or production work shall be reclaimed at the end of each exploration or operations season.
- (8) The type of construction, purpose and location of all proposed improvements, including subsurface improvements, shall be identified by the Lessee in a plan of development and approved by State in writing as required by Section 10 of this Agreement.
- (9) The methods employed to plug and abandon all drill holes.
- (10) Methods to eliminate subsidence from operations associated with the Permitted Use.
- (11) Development and methods to be used to develop the Underground Reservoir on the Property for the storage of Gas, description of kind of any Gas located in or to be injected into any such storage area, and methods of transporting and injecting Gas into the Underground Reservoir on the Property.
- (12) Methods to control noxious weeds.
- (13) In the event the Property falls within the boundaries of a Habitat Conservation Plan (HCP) adopted in the future between the State and the United States, Lessee shall comply with the terms of that HCP as it affects the Property to the extent it does not unreasonably interfere with Lessee's operation under this Agreement. If this Agreement is renewed or amended at a time that a HCP is in place for this Property, then this Agreement shall be subject to the terms of the HCP without regard to the degree of impact on the operations.

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6.03 Reporting.

(1) At least 180 days prior to injecting Gas or withdrawing Native Oil or Gas whichever occurs first, from an Underground Reservoir, other than for the purpose of testing the suitability of the Underground Reservoir for the storage of Gas, Lessee, at Lessee's sole expense, shall submit to State for its approval a report by a petroleum engineer acceptable to State that indicates the estimated amount of Native Oil and/or Gas Recoverable Reserves within the Property. Any disagreement between the State and Lessee concerning the existence or quantity of Native Oil or Gas Recoverable Reserves shall be submitted to binding arbitration with a mutually acceptable oil and gas consulting firm as arbitrator. If the parties can not agree on a consulting firm, either party may petition a judge of any court with jurisdiction over the Property to select a qualified arbitrator. Each party shall bear its own attorney fees and costs. Annually, Lessee shall review and update the estimate of Recoverable Reserves to reflect new information that becomes available during the course of operations. Revisions can be performed by qualified Lessee staff, at Lessee's cost. The revised estimate shall be provided to State within thirty (30) days of each anniversary of the initial engineer's report.

(2) Lessee shall provide State with a report by the 10th day of the calendar quarter indicating the amount of Gas injected into the Gas Storage Reservoir Area, the amount of Gas and rate of Gas withdrawn from the Gas Storage Reservoir Area, the total number of acres of land in the Gas Storage Reservoir Area, and the percentage of acres of the Property in the Gas Storage Reservoir Area during the preceding calendar quarter.

(3) Maps at a scale satisfactory to State, and other appropriate written material, indicating the boundaries of the Gas Storage Reservoir Area, the location of all leases for the Gas Storage Reservoir Area and the names of the ownership of the rights for the Gas Storage Reservoir Area shall be provided to State by the Commencement Date and subsequently upon request by State.

6.04 Reclamation. Within three months after the plugging or abandonment of a well or any surface disturbance, Lessee shall fill all excavations, remove all equipment and reclaim the area in accordance with the approved reclamation plan unless otherwise specified by State.

6.05 Lessee's Repairs, Alteration, and Maintenance. Lessee shall, at its sole cost and expense, keep and maintain the Property and all improvements thereon and all facilities appurtenant thereto (regardless of ownership) in good order and repair and safe condition for the safe conduct of any activities or enterprises conducted on the Property pursuant to this Agreement, and keep and maintain the whole of the Property, including all improvements in a clean and sanitary condition.

6.06 Weed Control. Lessee shall be responsible for, or shall immediately reimburse State, for any noxious weed control cost incurred as a result of Lessee's failure to control noxious weeds on the Property.

6.07 Transfer of Permits. Upon surrender, expiration, or cancellation of the Agreement, at State's request, Lessee shall assign and convey permit(s) obtained by Lessee in association with

performance of this Agreement to State or its designee without charge to State. Lessee hereby consents to the transfer of such permits by the appropriate governmental agency.

SECTION 7 SPECIAL RESTRICTIONS

7.01 Compliance with Laws. Lessee shall comply with and conform to all applicable laws, including but not limited to the Oil And Gas Conservation Act, regulations, permits, orders or requirements of any public authority affecting the Property and the use thereof and shall correct at the Lessee's own cost and expense any failure of compliance created through the Lessee's omission, failure, or fault or by reason of the Lessee's use or occupation of the Property. In no event shall Lessee undertake or suffer any activity to be conducted upon the Property which constitutes a nuisance which is a threat to the health or welfare of the general public or is a violation of environmental laws or regulations. Lessee shall cause all work on the Property and all business conducted thereon during the Term to be performed in accordance with all applicable laws and all directions and regulations of all governmental agencies and the representatives of such agencies having jurisdiction.

7.02 Valuable Materials. Lessee shall remove no valuable material, as defined in RCW 79.02.010(12) including timber, without prior written approval of the State.

7.03 Permit. Lessee shall obtain and keep in force all permits, licenses, permissions, consents, and approvals required to be obtained from governmental agencies or third parties in connection with, Lessee's permitted use, including construction of any improvements, changes, alterations, additions, repairs, or maintenance to the Property ("Permits"). Application for Permits shall be at the sole risk, cost and expense of Lessee. Copies of Permits shall be supplied to State upon request.

7.04 Seismic Surveys. Lessee shall not engage in seismic surveys, drilling, development and production within 200 feet of any Type 1, 2, 3 or 4 waters and wetlands as defined by Chapter 222-16 WAC and Chapter 344-12 WAC.

7.05 Deleterious Material. Lessee shall not make, or suffer to be made, any filling in of the Property with or any deposit of refuse, garbage, waste matter, chemical, biological or other wastes, hydrocarbons (other than as permitted under this Agreement for storage operations), any other pollutants, or other matter within or upon the Property, except as approved in writing by the State. If the Lessee shall fail to remove all non-approved material, refuse, garbage, wastes or other of the above materials from the Property, the Lessee agrees that the State may remove such materials and charge the Lessee for the cost of removal and disposal.

7.06 Hazardous, Toxic, or Harmful Substances.

- (i) Lessee shall not keep in, on, or about the Property, any substances other than Gas now or hereinafter designated as or containing components now or hereinafter designated as hazardous, toxic, dangerous, or harmful, and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "Hazardous Substances")

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unless such are necessary to carry out Lessee's permitted use under Section 3. Materials identified as toxic or hazardous are to be transported, stored and handled in accordance and compliance with the provisions of applicable federal, state, and local law, including but not limited to, 42 U.S.C. 6901 et. seq. (RCRA), 42 U.S.C. 9601 et. seq. (CERCLA), Chapters 70.105 and 70.105B RCW, and related laws, rules, and regulations now in existence or as subsequently enacted or amended.

(2) Lessee shall:

(i) Immediately notify the State of (1) all spills or releases of any Hazardous Substance in, on, about, or adjacent to the Property, (2) all failures to comply with any federal, state or local law, regulation or ordinance, as now enacted or subsequently enacted or amended insofar as such relate to Hazardous Substances in, on, about, or adjacent to the Property, (3) all inspections of the Property by, or any correspondence, orders, citations, or notifications from any regulatory entity concerning Hazardous Substances in, on, about, or adjacent to the Property, (4) all regulatory orders or fines or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party in, on, about, or adjacent to the Property, and

(ii) Provide copies to the State of any and all correspondence, pleadings, and/or reports received by or required of Lessee or issued or written by Lessee or on Lessee's behalf with respect to the use, presence, transportation or generation of Hazardous Substances in, on, about, or adjacent to the Property.

(3) Lessee shall be fully and completely liable to State, and shall indemnify, defend with counsel acceptable to State, and save harmless State and its agencies, employees, officers and agents with respect to any and all damages, costs, fees (including attorneys' fees and costs), penalties (civil and criminal), and cleanup costs associated with or imposed as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees or invitees, and for any breach of this Subsection 7.06.

*****USE FOR AGREEMENTS WITH SPECIAL PROTECTION RESTRICTIONS -- [O&G4]***

5.06 Protection. The occurrences listed below

7.07 Protection. The occurrences listed below have been noted within the Property. Before entry or commencement of any exploration activities, the Lessee shall contact the agency or agencies listed for location and protection requirements.

(a) An archaeological or historical site has been identified on the lease area. Prior to commencing preliminary investigations, the Lessee shall contact the State Office of Archaeology and Historic Preservation, _____, Olympia, Washington 98504, for location and steps to reduce impacts and to protect the site.

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SECTION 8 INSURANCE, TAXES, INDEMNITY, BONDS

8.01 Insurance Requirements

(1) Evidence of Insurance: Lessee must furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the State, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements set forth below. The Certificate of Insurance must reference the Department of Natural Resources and agreement number.

(2) Cancellation: The Certificate(s) of Insurance must provide 45 days written notice to State before the cancellation, non-renewal, or material change of any insurance coverage included therein. Notices must be sent to State's _____ office via certified mail.

(3) Additional Requirements:

- (a) All policies must name the State of Washington, Department of Natural Resources, as an additional insured.
- (b) All insurance policy(ies) must include Other Insurance provisions that indicate Lessee's policy provides primary insurance coverage.
- (c) All insurance policies must provide liability coverage on an occurrence basis unless otherwise specified in this Agreement.
- (d) Policies must be issued by an insurer admitted and licensed by the Insurance Commissioner to do business in the State of Washington. Excess or "surplus lines" carriers must be approved in advance by the Risk Manager (or other authorized representative) for State. All insurers must have a Best's rating of B plus (B+) or better.

(4) Minimum Coverage Requirements: The Minimum Coverage Requirements set forth the *minimum* limits of insurance the Lessee must purchase to secure agreement with State. These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these minimum limits of coverage does not relieve the Lessee from liability for losses and settlement expenses greater than these amounts.

During the term of this Agreement, Lessee must purchase and maintain, and shall require all independent contractors to maintain while performing work on the Property, the minimum insurance coverages and limits specified below, which may be increased by State at its sole discretion:

- (a) Commercial General Liability (CGL) Insurance. Lessee must purchase and maintain CGL on an Insurance Services Office (ISO) form CG 00 01 or equivalent form, covering liability arising from Property, operations, independent contractors, personal injury, and liability assumed under an insured contract. Such insurance must be provided

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on an occurrence basis. Insurance must include liability coverage with limits not less than those specified below:

Description

Each Occurrence Limit	\$3,000,000
General Aggregate Limit	\$3,000,000

(b) Business Auto Policy (BAP) Insurance (required for all contracts). The Lessee must purchase and maintain a BAP on an Insurance Services Office (ISO) form CA 00 01 or equivalent form. The Description of Covered Autos must include one or more of the following:

"Any Auto" (Symbol 1), "Hired Autos Only" (Symbol 8), "Non-Owned Autos" (Symbol 9).

Such insurance must be provided on an occurrence basis. The BAP insurance must include liability and physical damage coverage with limits not less than those specified below. The Lessee is responsible for any deductible.

<u>Description</u>	<u>Each Accident</u>
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Bodily Injury and Property Damage	\$3,000,000
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(c) Worker's Compensation and Employer's Liability Insurance: The Lessee must purchase and maintain insurance covering obligations imposed by Federal and State statutes having jurisdiction of its employees in the performance of work, including Employer's Liability Insurance. Evidence of "Qualified Self-Insurance Status" will suffice to meet the requirements of this section.

<u>Description</u>	<u>By Accident</u>	<u>Each Employee By Disease</u>	<u>Policy Limit By Disease</u>
Bodily Injury	\$1,000,000	\$1,000,000	\$1,000,000

(d) Builder's Risk Insurance:

(i) At State's request, during the period construction is in progress and until completion of the project and acceptance by State, Lessee shall buy and maintain in force builder's risk insurance on the entire work. Such insurance shall be written on a completed value form and in any amount equal to the value of the completed building, subject to subsequent modifications to that sum. The insurance shall be written on a replacement cost basis. This insurance shall name as insured the Department of Natural Resources, Lessee and all subcontractors and sub-subcontractors in the work.

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(ii) Insurance required in paragraph (i) shall be written to cover all risks of physical loss except those specifically excluded in the policy, including loss or damage caused by collapse.

(iii) Insurance required in paragraph (i) shall cover the entire work at the site, including reasonable compensation for architect's services and expenses made necessary by an insured loss. Insured property shall include portions of the work located away from the site but intended for use at the site, and shall also cover portions of the work in transit.

(iv) The policy shall include as insured property scaffolding, false work, and temporary buildings located at the site. The policy shall cover the cost of removing debris, including demolition as made legally necessary by the operation of any law, ordinance, or regulation.

(v) Any deductible applicable to the insurance bought in compliance with paragraph (i) shall be identified in the contract documents and the responsibility for paying the part of any loss not covered because of application of deductible(s) shall be the responsibility of the Lessee. If any part of any loss is not covered because of the application of a deductible amount not identified in the contract documents, such loss will be paid by Lessee.

(e) Self-Insurance. In lieu of the coverages required under this section entitled "Insurance Requirements", the State at its sole discretion, may accept evidence of self-insurance by the Lessee, provided the Lessee provides the following:

(1) Lessee shall provide a statement by a CPA or actuary, satisfactory to the State, that demonstrates Lessee's financial condition is satisfactory to self-insure any of the required insurance coverages.

(2) State may require Lessee to provide the above from time to time to ensure Lessee' continuing ability to self-insure. If at any time the Lessee does not satisfy the self insurance requirement, Lessee shall immediately purchase insurance as set forth under this section entitled "Insurance Requirements"

Aside from any "self-insurance" guaranteed by the Lessee, it is the responsibility of the Lessee to ensure that its contractors, concessionaires, agents, employees, guests, invitees, or affiliates in, on, under, or above the Property, any adjoining property, or any other property subject to use by Lessee in conjunction with its use of the Property, meet minimum insurance requirements described above.

8.02 Taxes and Assessments.

(1) Leasehold Tax. Should a leasehold tax be imposed on this Agreement or any interest therein, from the Commencement Date and continuing throughout the Term, Lessee shall pay the leasehold tax as set forth in RCW Chapter 82.29A - Leasehold Excise Tax or as may be amended. The tax shall be due and payable at the same time the

rental charged herein is due and payable. Failure to pay said tax when due and payable shall be considered a breach of the provisions of this Agreement. Any delinquent taxes shall be a debt to the State and in the event the State is subject to any penalties or interest because of the failure of the Lessee to pay such taxes, such penalties and interest shall be payable by the Lessee to the State and shall be considered a debt to the State. In the event the State suffers any costs of whatsoever nature, including attorney fees, or other costs of litigation in collecting said tax, such costs shall be payable by the Lessee and shall be considered a debt due and owing to the State by the Lessee.

(2) Property Taxes. Lessee shall pay during the term of this Agreement all taxes and other governmental charges of any kind applicable or attributable to the Property, Lessee's leasehold interest therein, improvements thereon, and Lessee's use and enjoyment thereof.

(3) Assessments. Lessee shall pay the total amount of all assessments that are legally required to be paid now or may be charged during the Agreement term to the Property or the improvements thereon. Lessee shall not cause or suffer the imposition of any assessment upon the Property without the prior written consent of State. In the event any new assessment is proposed which affects the Property, Lessee shall immediately notify State of such proposal after Lessee has knowledge or receives notice thereof. Any assessment upon the Property shall be made in compliance with all applicable statutes, including, but not limited to, Chapter 79.44 RCW. Payment for assessments shall be made as directed by State.

(4) Payment Date and Proof. The Lessee shall pay all taxes, and/or assessments when due. Lessee shall, if required by State, furnish to State receipts or other appropriate evidence establishing the payment of such amounts.

8.03 Indemnity. From and after the Commencement Date of this Agreement, the Lessee shall indemnify, defend (with counsel acceptable to State) and hold harmless State, its employees, officers, and agents from any and all liability, damages (including, but not limited to, personal injury and damages to land and other natural resources), expenses, causes of action, suits, claims, costs, fees (including, but not limited to, attorneys' fees), penalties or judgments, of any nature whatsoever, arising out of the use, occupation, or control of the Property by Lessee, Lessee's sublessees, invitees, agents, employees, licensees, or permittees except as may arise solely out of the willful or gross negligent act of State or State's elected officials, employees, or agents. To the extent that RCW 4.24.115 applies, Lessee shall not be required to indemnify, defend, and hold State harmless from State's sole or concurrent negligence. This section shall not in any way limit Lessee's liability under Subsection 7.06 (Hazardous, Toxic, or Harmful Substances). Lessee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents, or employees.

8.04 Performance Security. The Lessee agrees, prior to conducting any operations under this Agreement, to furnish a performance security with an approved corporate surety company authorized to do business in the State of Washington, or such other surety as may be acceptable to the State in an amount reasonably calculated by State to assure payment of all rents, royalties, or other payments due the State. Such performance security shall be conditioned upon the

payment of such royalties, and upon the full compliance with all other terms and conditions of this Agreement and laws and regulations relating thereto. The amount of the required performance security may be increased in such reasonable amounts as State may decide. The performance security shall also be conditioned upon payment of damages to the owner of surface rights and improvements, including the State.

SECTION 9 SUBLEASES AND ASSIGNMENTS

9.01 Sublease. The Property, in whole or in part, and appurtenances thereon shall not be subleased without written approval from the State which shall not be unreasonably withheld. If approved, Lessee shall remain obligated for all actions on the Property including compliance with all provisions contained in this Agreement.

9.02 Assignment. Lessee shall not hypothecate, mortgage, assign, encumber, transfer, or otherwise alienate this Agreement, or any interest therein or engage in any other transaction which has the effect of transferring or affecting the right of enjoyment of the Property without the prior written approval of the State, which shall not be unreasonably withheld.

9.03 Approval of Sublease or Assignment. In determining whether to approve a transaction under either Section 9.01 or 9.02, the State shall be entitled to consider, among other items, the proposed sublessee's/assignee's financial condition, managerial capability, business reputation, nature of the proposed sublessee's/assignee's business, and such other factors as may reasonably bear upon the suitability of the sublessee/assignee or transferee as a tenant of the Property or the holder of this Agreement.

9.04 Cost. The State may require reimbursement for any additional administrative costs resulting from the assignment.

9.05 No Waiver. Consent of the State to an assignment or transfer shall not constitute a waiver of the State's right to approve subsequent assignments or transfers. The acceptance by State of payment or performance following an assignment or transfer shall not constitute consent to any assignment or transfer, and State's consent shall be evidenced only in writing.

9.06 Assignee/Transferee Obligations. Each permitted assignee, or transferee of Lessee shall assume and be deemed to have assumed all obligations of Lessee under this Agreement. Notwithstanding any such assignment or transfer, Lessee shall be and remain jointly and severally liable with the assignee or transferee for all obligation under this Agreement, unless released, in writing, by the State. Lessee's obligations shall continue in full force and effect as to and include any additional obligations created by any renewal, amendment, modification, extension, assignment or transfer of the Lease or any subletting of the Property, whether or not Lessee shall have received notice of or consented to the same. Lessee waives all suretyship defenses and waives notice of any breach by a subsequent assignee or transferee.

9.07 Corporations, General Partnerships, Limited Partnerships. If Lessee is a corporation, any merger, consolidation, liquidation, or any change in ownership, control or the power to vote the majority of its outstanding voting stock, shall constitute an assignment, Sample

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whether the result of a single transaction or a series of transactions. If Lessee is a general partnership, the death, withdrawal or expulsion of a partner or partners owning, or transfer of interests representing, in the aggregate more than fifty percent (50%) of the partnership profits or capital shall constitute an assignment, whether the result of a single transaction or a series of transactions. If Lessee is a limited partnership, the death, withdrawal or expulsion of any general partner shall constitute an assignment.

SECTION 10 IMPROVEMENTS

10.01 Authorized Improvements. No improvement shall be placed on the Property without the prior written consent of the State, which shall not be unreasonably withheld. Consent shall be granted through this Agreement or written Letter of Authorization issued by the State. All improvements on the Property belong to the State except those Lessee authorized improvements which, if any, are listed in Exhibit ___ and/or subsequent exhibits as provided for by Letters of Authorization issued by the State.

10.02 Development Plan. Prior to any development or the construction of any and all improvements on the Property, the Lessee must submit a completed Development Plan to the State for its written approval which shall not be unreasonably withheld. The plan shall include, but is not limited to, the following:

- (1) Map showing areas to be developed, location of improvements and location of utility and other easements.
- (2) Land clearing, leveling, erosion control plans.
- (3) List of proposed improvements and detailed plans for the improvements.
- (4) Estimated itemized cost of proposed improvements.
- (5) Schedule of completion dates for proposed improvements.

After completion of construction, Lessee shall provide to State "as-built" drawings showing the exact location of all facilities and pipelines. In case of incomplete improvements or development, Lessee shall restore the land to its original condition if the State determines it to be in the best interest for managing the land.

10.03 Unauthorized Improvements. All improvements not included in the original or amended Development Plan as approved by the State, or as provided for by Letters of Authorization issued by the State, made on or to the site, without the written consent of the State shall immediately become the property of the State or at the State's option, may be required to be removed by the Lessee at the Lessee's sole cost.

10.04 Severance of Improvements not on State Land. If any of the Lessee's authorized improvements that are or have become the property of the State utilize, in addition to State land, other adjoining lands not owned by the State, the State shall have at the expiration, termination,

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cancellation, surrender of the leasehold or at the end of the period for removal, if applicable, the right to enter upon adjoining land to physically sever at the ownership boundary, without liability for damage as a result thereof, the improvements; thereafter, to use the severed improvements remaining on State land for any purpose.

10.05 Disposition of Authorized Improvements. The Lessee shall remove all authorized improvements, Gas, or Native Oil and/or Gas owned by Lessee within ninety days of the expiration or earlier non-default termination of the Agreement without injury to the Property unless Lessee is granted an extension of time where forces beyond Lessee's control prevent such removal within ninety days. In the event Lessee fails to remove the Lessee owned improvements, Gas, or Native Oil and/or Gas as set forth above, the State may at its option have the improvements, Gas, or Native Oil and/or Gas removed at Lessee's expense or the Lessee owned improvements, Gas, or Native Oil and/or Gas shall become the property of the State.

10.06 Condition at End of Agreement Term. Prior to vacating the Property, the Lessee shall leave the Property and all State owned improvements thereon in the state of repair and cleanliness required to be maintained by Lessee during the term of this Agreement. Lessee shall peaceably and quietly surrender the same to State.

10.07 Surety Bond. A surety bond, savings account assignment, or letter of credit may be required to assure completion of construction or development and removal of any improvements costing in excess of \$2,500.

SECTION 11 ROADS

11.01 Across Property. The Lessee is authorized, subject to the approved Plan of Operation and surface rights previously granted, to use existing roads on the Property needed for operations under this Agreement. The Lessee may, with written approval of State, which shall not be unreasonably withheld, construct additional roads needed for operations on the Property. Construction and maintenance activities shall meet or exceed Forest Practices Board standards (Chapter 222-24 WAC). Lessee shall comply with the terms set forth herein when using the roads.

11.02 Access To Property. Access to the Property shall be as follows:

Choose one of the following (1) paragraphs; delete the ones not applicable

1. State has no legal access to the Property. Lessee must obtain legal access before entering the Property. In any such agreement, Lessee must provide for access by State to exercise its rights under this Agreement. Lessee shall submit to State in writing, any agreements to obtain legal access to the Property.

1. Authorized Access. Lessee is granted the nonexclusive right to use existing roads as described in Exhibit _____ to provide access to the Property for the purpose of exercising the rights under this Agreement according to the terms set forth herein. This access may include rights acquired by the State through easements as further described

elsewhere in this Subsection.

1. Easement. The Lessee is authorized to use an easement between the State and _____ dated _____, [Optional sentence to provide access to the Property] over property legally described in Exhibit ____ and agrees to comply with all the terms and conditions of the said agreement, filed under Auditors File No. _____ and attached as Exhibit _____.

11.03 Term. The rights granted in this Section shall last only until this Agreement expires or is terminated as provided herein.

11.04 Road Repair. The Lessee shall repair or cause to be repaired at its sole cost and expense that damage to said road(s) occasioned by it which is in excess of that which it would cause through normal and prudent usage of said road(s). Within fifteen (15) days of the damage, the Lessee shall meet with the State and provide a plan of operation for the repairs.

11.05 Joint Road Maintenance. The cost of road maintenance and resurfacing shall be allocated on the basis of respective uses of said road. Where either party hereto uses a road, or portion thereof, that party shall perform or cause to be performed, or contribute or cause to be contributed, that share of maintenance and resurfacing occasioned by such use as hereinafter provided. During periods when a road is being used solely by one party, such party shall maintain that portion of said road so used to the standards equal to or better than those existing at the time use is commenced; provided the State reserves the right to make reasonable allocations concerning priority of use and maintenance of said roads by it and others.

During periods when more than one party is using the same road, or any portion thereof, the parties hereto shall meet and establish necessary maintenance provisions. Such provisions shall include, but shall not be limited to:

- (1) The appointment of a maintainer, which may be one of the parties hereto or any third party, who will perform or cause to be performed at a reasonable and agreed upon rate the maintenance and resurfacing of the road or the portion thereof being used; and
- (2) A method of payment by which each party using said road or a portion thereof, shall pay its pro rata share of the cost incurred by said maintainer in maintaining or surfacing said road or portion thereof.

11.06 Improvements. Lessee shall construct no road improvements without the prior written consent of State, which shall not be unreasonably withheld. Unless the parties agree in writing to share the cost of improvements, improvements shall be at the sole expense of the improver. Any improvements to road areas shall become property of the State upon expiration or termination of the Agreement.

11.07 Road Fee. Lessee shall pay any road use or maintenance fees, including but not limited to the Access Road Revolving Fund fees established by State.

11.08 Insurance. The provisions under Subsections 8.01 and 8.03 shall apply to the Lessee's use of the roads and easements authorized herein.

OPTIONAL; delete if not applicable

11.09 Gates. Lessee shall [Choose one of the following options: [maintain the locked gate][install a gate and lock to the specifications of State as approved in the Plan of Operations by _____ before _____] on _____ road(s) as identified in Exhibit _____ to prevent unauthorized trespass onto the Property.

SECTION 12 CONDEMNATION

If all of the Property is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Agreement, the Agreement terminates as of the date of condemner takes possession. If part of the Property is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Agreement, the lease shall terminate as to the portion taken and continue in force as to the remainder; provided, that if Lessee determines that the taking will render further operations on or under the Property infeasible, then Lessee may terminate this Agreement upon 90 days written notice to the State. Under a partial taking, the Storage Rent will not be reduced unless Lessee's use of the Underground Reservoir is diminished, in which case the Storage Rent shall be reduced by the acreage of the Underground Reservoir lost as a result of the condemnation. If the taking is for a period which will end on or extend beyond the expiration of the term of this Agreement, Lessee will have no claim or interest in or to the award of damages for the whole or partial taking of the site except that Lessee will be entitled to an amount equal to the fair market value of any improvements as of the date of taking considered by the Agreement to be owned by the Lessee that have been taken. Lessee shall have the right to claim and recover from the condemning authority, but not from State, unless State is the condemner, such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right for any and all damage to Lessee's business by reason of any condemnation and for or on account of any cost or loss to which Lessee might be put in removing Lessee's merchandise or improvements. If temporary use of all or part of this site is taken by any lawful authority under the power of eminent domain for a period ending before the expiration of the term, this Agreement will continue in full force and Lessee will be entitled to receive any award from the condemner for the use of all or part of the Property taken; provided, that if lessee determines that the taking will render Gas storage operations on or under the Property infeasible, then Lessee may terminate this Agreement upon 90 days written notice to the State. The State and Lessee will give to the other immediate written notice of any proceedings with respect to a condemnation and of the any intentions of any authority to exercise the power of eminent domain.

SECTION 13 DEFAULT

13.01 Default. If Lessee breaches or defaults on any undertaking, promise or performance called for herein, the State may cancel this Agreement after the Lessee has been given thirty (30) days notice of default and intent to cancel, and such breach or default has not been corrected

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within such time. If the default can only be cured by means other than the payment of money and the Lessee commences to cure the default, then the Agreement shall not be canceled so long as the Lessee diligently pursues the cure. Upon cancellation for default, all Lessee owned improvements, Native Oil and/or Gas and Gas on the Property shall, at State's option, (1) be forfeited and become the property of the State subject only to any previously approved waiver of interest or security interest or (2) be removed from the Property at the Lessee's sole cost within ninety days unless a longer time is required due to circumstances beyond Lessee's control and such request is made in writing and approved by State. The State may seek damages for any and all violations or defaults with or without canceling this Agreement. In the event State deems the breach or default to constitute a threat to safety, life, or property it may elect to intervene immediately, without notice, to remedy the breach or default, and Lessee hereby agrees to repay State for all costs incurred to remedy the breach or default upon demand, together with interest thereon from the date of expenditure at the rate set forth in this Agreement. Alternatively, State may require Lessee itself to act immediately to remedy the breach or default should State deem it a threat to safety, life, or property.

13.02 Survival. All obligations of Lessee to be performed prior to the expiration or earlier termination of this Agreement shall not cease upon the termination or expiration of this Agreement, and shall continue as obligations until fully performed. All clauses of this Agreement which require performance beyond the termination or expiration date shall survive the termination or expiration date of this Agreement. However, upon expiration or earlier termination of this Agreement, the rights of Lessee and of all persons, firms, corporations, and entities claiming under Lessee in and to the Property and all improvements hereon, unless specified otherwise in this Agreement, shall cease

13.03 State's Right to Cure Defaults. If Lessee fails to perform and is in default of any undertaking or promise contained herein, including those set forth in any plan of development, the State shall have the option, but is not obligated, to make such performance after giving 10 days written notice to the Lessee. The State's costs and expense to correct Lessee's failure to perform shall be reimbursed by Lessee and shall be immediately due and payable, together with interest accruing from the date such cost or expense is incurred.

13.04 Remedies Cumulative. The specified remedies to which the State may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which State may lawfully be entitled in case of any breach or threatened breach by Lessee of any provision of this Agreement.

13.05 Force Majeure. The Lessee's failure to comply with any of the obligations under this Agreement shall be excused only if due to causes beyond Lessee's control and without the fault or negligence of the Lessee, including acts of God, acts of the public enemy, acts of any government, fires, floods, epidemics and strikes.

13.06 Attorney Fees and Venue. Each party shall be responsible for their own attorney fees and court costs in the event of a dispute arising out of this Agreement except as set forth in Subsections 7.06 (Hazardous, Toxic, or Harmful Substances); 8.02 (Taxes); 8.03 (Indemnity) and 14.11 (Lessee Liens). Venue for resolving such disputes shall be in Thurston County Superior Court of Washington.

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13.07 Nonwaiver. Waiver by the State of strict performance of any provision of this Agreement shall not be a waiver of nor prejudice the State's right to require strict performance of the same provision in the future or of any other provision. The acceptance of performance, rent, or any other sum owing, by State following a breach by the Lessee of any provision of this Agreement shall not constitute a waiver of any right of the State with respect to such breach and State shall be deemed to have waived any right hereunder only if State shall expressly do so in writing.

SECTION 14 MISCELLANEOUS

14.01 No Partnership. The State is not a partner nor a joint venturer with the Lessee in connection with the activities conducted and business carried on under this Agreement, and the State shall have no obligation with respect to the Lessee's debts or other liabilities.

14.02 Lessee's Authority. Persons executing this Agreement on behalf of Lessee represent that they are authorized to do so and represent and warrant that this Agreement is a legal, valid, and binding obligation on behalf of Lessee, and is enforceable in accordance with its terms.

14.03 State's Authority. This Agreement is entered into by State pursuant to the authority granted by statute and the Constitution of the State of Washington. The terms and conditions hereof are subject to such statutory and constitutional provisions as may be now in effect and such provisions which do not impair the contractual rights of Lessee under this Agreement which may lawfully be enacted subsequent to the date of this Agreement.

14.04 Preservation of Markers. Any legal land subdivision survey corners, reference points or monuments are to be preserved. If such are destroyed or disturbed, the Lessee shall re-establish them by a licensed land surveyor in accordance with U.S. General Land Office standards at Lessee's expense. Corners and/or reference points or monuments that must necessarily be disturbed or destroyed in the process of carrying out the operations allowed by this Agreement must be adequately referenced and/or replaced in accordance with Chapter 58.09 RCW. Such references and replacements must be approved by the State prior to removal of said corners, reference points or monuments.

14.05 Interpretation and Numbering. This Agreement has been submitted to the scrutiny of all parties hereto and their counsel if desired. The terms in this Agreement shall be given their ordinary meaning unless otherwise defined herein or a generally accepted meaning exists within the industry, and the Agreement shall not be presumptively construed against either party hereto. Section numbers, headings, or titles are for convenience only and are not to be construed to limit or to extend the meaning of any part of this Agreement.

14.06 Time of Essence. Time is expressly declared to be of the essence of this Agreement and each and every covenant of Lessee hereunder. No waiver or consent to any breach or other default in the performance of any of the terms of this Agreement shall be deemed to constitute a waiver of any subsequent breach of the same or any other term or condition hereof. In the event

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time for performance falls on a weekend or legal holiday designated by the United States or Washington State, performance shall be deemed to be timely if so rendered on the next business day.

14.07 Amendments. Any amendments, revisions, supplements, or additions to this Agreement or the attached exhibits shall be made in writing executed by the parties hereto, and neither State nor Lessee shall be bound by verbal or implied agreements. Such changes may be made by re-execution of the signature page and the deletion and addition of the appropriate new effective pages or exhibits governing the change, if any.

14.08 Entire Agreement. This written Agreement or its successor or replacement contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid.

14.09 Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent prove to be invalid, unenforceable, void, or illegal, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall be not affected thereby, and each term and provision of this Agreement shall be valid and be enforced as written to the fullest extent permitted by law.

14.10 Notices and Submittals. Any notice or submittal given under this Agreement shall be deemed as received when delivered by hand or given by certified mail. Such notice given by mail shall be deemed to have been served when seventy-two (72) hours have elapsed from the time such notice was deposited in the mail and postage prepaid, addressed to the party below. Changes of address may be given in accordance with this section. Any notice or submittal given under this Agreement shall be:

To the State:

Where Agreement provisions require submittal to State office:

Department of Natural Resources
PO Box 47016
Olympia, WA 98504-7016

To the Lessee:

14.11 Liens. Lessee shall not suffer or permit any lien to be filed against Lessee's interest in the Property, any improvements thereon or any production therefrom by reason of work, labor, services or materials performed or supplied to Lessee. If any such lien is filed against Lessee's interest, any improvements thereon or any production therefrom, Lessee shall cause the same to

Sample

be discharged of record within thirty (30) days after the date of filing the same unless other arrangements are authorized in writing by the State. Lessee shall indemnify the State for any costs, damages or expenses (including attorneys' fees) incurred as a result of the filing of such liens or in obtaining their discharge whether such costs, damages or expenses were incurred prior or subsequent to any cancellation.

14.12 Surrender of Agreement. The Lessee shall have the right of surrendering all or any portion or portions of the Property at any time, if all rental, fees and royalty payments are current, and paid up to the time of termination, and all other obligations hereunder are satisfied. Lessee shall exercise this right by giving State sixty (60) days advance written notice of its intent to surrender accompanied by a release of interest and quitclaim for those portions of the Property to be surrendered which shall be filed in the appropriate county recorder's office.

14.13 Well Name and Location. All wells drilled on the Property shall begin with the word "State" in its official name. The Lessee shall, within ten (10) days prior to commencement of drilling, advise the State in writing of the well location, name and date drilling will commence.

14.14 Exhibits. All exhibits now or subsequently attached hereto as provided for in this Lease shall be deemed incorporated into and a part of this Lease.

The Lessee expressly agrees to all covenants herein and binds himself for the payment of the rental hereinbefore specified.

Name of Company (All CAPS)

Dated _____, 20____.

By: _____

Title: _____

UBI No. _____

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated _____, 20____.

DOUG SUTHERLAND
Commissioner of Public Lands

Approved as to form September 1998.

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STATE OF _____)
)ss
COUNTY OF _____)

On this _____ day of _____, 20____, personally appeared before me _____ to me known to be the _____ of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she/was they were authorized to execute said instrument for said corporation and that the seal affixed is the corporate seal of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for the State of _____
residing at _____.

My appointment expires _____.

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MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE, dated as of the ____ day of _____, 20____, is between the STATE OF WASHINGTON, acting by and through the Washington State Department of Natural Resources (hereinafter called "State") and _____, (hereinafter called "LESSEE").

1. Property: State hereby leases to Lessee, upon the terms and conditions of the Lease between the parties (herein called the "Agreement") dated _____, which terms and conditions are incorporated by this reference, the exclusive right to explore for, establish and operate one or more Underground Reservoirs for the storage of natural gas from the following described land situated in _____, County, Washington:

_____.

2. TERM: This Agreement shall commence on _____, and continue to _____, and shall be renewed, for another twenty (20) year period as long as the Property continues to be used for the storage of Gas in an Underground Reservoir under the same terms of this Agreement with the exception that the State shall have the right to modify the rents, rates, fees, royalties, and other payments imposed under Section 4 and the calculation of such payments to ensure a fair market return to the State.

3. PURPOSE OF MEMORANDUM OF LEASE: This Memorandum of Lease is prepared for the purpose of recordation, and it in no way modifies the Agreement.

Signed this _____ day of _____, 20____.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

DOUG SUTHERLAND
Commissioner of Public Lands

STATE OF WASHINGTON)
COUNTY OF THURSTON)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the _____ day of _____, 20____.

My commission expires _____.

On this ____ day of _____, 20____, personally appeared before me DOUG SUTHERLAND, to me known to be the Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington, the Department that executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the State of Washington for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

My appointment expires _____.